

**NOTICE:** ALL TRANSACTIONS BETWEEN DYSTAR LP (“**SELLER**”) AND BUYER, AND ALL DOCUMENTS PERTAINING TO SUCH TRANSACTIONS, ARE SUBJECT TO AND CONDITIONED UPON THESE TERMS AND CONDITIONS OF SALE AND SERVICE (“**TERMS**”) AND THESE TERMS ARE INCORPORATED BY REFERENCE INTO AND ARE A PART OF ALL TRANSACTIONS BETWEEN SELLER AND BUYER.

### **I. Additional or Conflicting Terms**

1. “**Sales Documents**” include any quotation, proposal, statement of work, order confirmation, order acceptance and invoice issued in writing (including via email or electronically) by an authorized representative of Seller. Buyer’s purchase of Products (defined below) from Seller, and any Services (defined below) provided by Seller, will be governed solely by these Terms and any applicable Sales Documents issued by Seller in connection with such Products or Services (collectively, the “**Contract**”). In no event will Buyer’s terms in any purchase order, statement of work, commercial document, communication or otherwise apply to, nor will Buyer’s proposed, additional or different terms modify, a Contract unless Seller expressly accepts Buyer’s specific terms in writing by including such specific terms in the Sales Documents. **Seller hereby objects to and rejects any additional or different terms or conditions proposed by Buyer or contained in any purchase order, statement of work, commercial document or other correspondence from Buyer, regardless of any knowledge Seller may have of such terms, and such terms will not bind Seller or be applicable to the transaction (even if Buyer’s purchase order or statement of work is referenced in the Sales Documents).** If any of these Terms conflict with the Sales Documents, the specific terms in the applicable Sales Documents will prevail over these Terms. The applicable terms of any revised or later Sales Document will control over such terms in a prior, similar Sales Document. No other terms or changes, modifications, amendments or waivers of any terms in a Contract will apply to Seller unless in writing and signed by an authorized representative of Seller.
2. All sales of products and any other goods sold by Seller (individually, “**Product**” and collectively, “**Products**”), and any services provided by Seller (“**Services**”) are contracts entered into in North Carolina and then only in accordance with the Sales Documents.

### **II. Order Process; Acceptance**

1. Seller will sell Products and provide Services to Buyer in the quantities and at the times set forth in the Sales Documents. Buyer may order Products from Seller by: (a) calling Seller Customer Service in Charlotte, NC, Dalton, GA, Cincinnati, OH, or, for Food Foam Products, Seller Customer Service in Cheyenne, WY; (b) calling Seller’s local sales representative; or (c) submitting a written purchase order that references Product(s), quantity per Product, and requested delivery date. Buyer may request

Services by submitting a statement of work describing Services and referencing a performance date. All purchase orders and requests submitted to Seller for Products or Services, are subject to acceptance by Seller and notwithstanding Seller’s acceptance, only the terms of the Sales Documents will apply. Final lead times and delivery dates will be those included in Seller’s Sales Documents. Seller’s acceptance may be in writing (such as via an order confirmation, order acknowledgment, invoice, or delivery note), including electronically or via email, or by delivery of Products to Buyer or performance of Services for Buyer.

2. Seller may change a Sales Document at any time to correct mathematical or clerical errors.

### **III. Prices**

1. All prices for Products and Services will be as specified by Seller in its Sales Documents. If no price has been specified in the Sales Document, the price will be Seller’s standard price in its catalogs or price lists in effect at the time of delivery. Unless otherwise stated in Seller’s Sales Documents, all prices are in U.S. dollar, calculated by Seller per pound or per unit, and apply to standard-sized containers. All prices from Seller must be in writing and may be changed at any time without notice. Buyer will also reimburse Seller for all reasonable travel and out-of-pocket expenses incurred by Seller in connection with the performance of Services.
2. The prices do not include any sales, use, personal property, excise, transfer or other tax, nor any duties or assessment, arising out of or related to Products, Services, or their purchase and sale which may be imposed by any governmental authority, all of which will be the obligation of, and paid by, Buyer. If Seller pays any such tax, duty or assessment, Buyer will reimburse Seller in accordance with the terms of **Section IV(1)** below. Buyer is responsible for obtaining and providing to Seller any certificate of exemption or similar document required to exempt any sale from sales, use or similar tax liability.

### **IV. Payment**

1. Unless expressly specified otherwise in the Sales Documents, Buyer will pay all amounts due in full, and without deduction or setoff within 30 days after the date of the invoice, regardless of any dispute or controversy that may arise. Buyer will make all payments under a Contract by wire transfer, cash, credit card, check, or such other payment method as Seller may specify from time to time and in U.S. dollars. Buyer is responsible for all credit card fees, foreign exchange, wire transfer and other bank fees. The date of payment will be the date Seller receives payment in full.
2. If at any time, in its sole discretion, Seller has any doubt or concern as to Buyer’s financial standing, solvency, creditworthiness or ability to perform its obligations, Seller may decline to make shipments, discontinue performance of Services, and terminate a Contract (in whole or in part), except upon receipt of a deposit or other satisfactory security or advance cash payment shipment.

3. If Buyer fails to make any payments as and when due or otherwise defaults (a) interest will accrue from the date the payment was due until payment is received in full at the lower of 1.5% per month or the maximum amount allowed by applicable law and (b) Seller may take any or all of the following actions: (i) suspend performance under this Contract or any other Contract with Buyer; (ii) terminate this Contract for default or any other Contract with Buyer; (iii) require Buyer to pay the full Contract price and any interest, fees and other charges immediately; and (iv) take any other actions or pursue any other rights or remedies. To the extent allowed by applicable law, Buyer will further reimburse Seller for all costs incurred in collecting any late payments, including attorneys' fees and expenses. Failure by Seller to charge interest on late payments or to exercise its other rights and remedies will not be construed as a waiver of any other legal or equitable remedies.
4. Seller may, in its sole discretion, apply payments by Buyer to the oldest invoice first and in the following order: accrued costs, accrued interest, price for Products or Services.
5. Buyer will not withhold, offset or recoup any amounts it owes to Seller under a transaction, Contract, or otherwise against any other amount Buyer claims Seller owes to it, regardless of any dispute that may arise between the parties.

**V. Suspension or Termination.** Without limiting Seller's other rights and remedies available under a Contract, applicable law or in equity, Seller may suspend or terminate performance and delivery, if: (1) Buyer fails to perform or observe any other obligations under a Contract between Seller and Buyer; (2) there is a change in the control or management of Buyer; (3) Buyer ceases to conduct its operation in the normal course of business; (4) Buyer becomes insolvent or files for bankruptcy or has a bankruptcy proceeding filed against it; or (5) Buyer makes an assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of all or part of Buyer's property. Seller may also suspend performance or terminate any Contract, without liability or obligation to Buyer, if Seller reasonably believes that its performance may violate applicable laws, regulations or orders of a governmental authority.

#### **VI. Delivery**

1. Unless otherwise stated in Seller's Sales Documents, all deliveries of Products are EXW (Incoterms 2010) at Seller's designated warehouse facilities or such other location as designated by Seller ("**Delivery Point**"). Buyer will take delivery of Products when Products have been made available at or delivered to the Delivery Point. Unless otherwise stated in Seller's Sales Documents, the prices do not include any transportation, insurance, or packaging costs and Buyer is responsible for all such costs. Packaging is at Seller's sole discretion, and

packaging costs will be calculated at Seller's net cost. Seller may make partial or early deliveries.

2. Notwithstanding any requested delivery dates by Buyer, the delivery date in Seller's Sales Documents will control. Any shipping or delivery date, quotation, forecast or commitment is only an estimate and Seller will not be liable for any delay or failure to deliver all or any part of any order for any reason. Without limiting the generality of the preceding sentence, Buyer must give Seller immediate written notice of any alleged delay in delivery and Seller will have a reasonable period, but in no event less than 10 days, to cure such alleged delay. Seller will not be responsible for any damage to Products caused by a carrier and Buyer's sole recourse for such damage will be against the carrier. If Buyer delays, or is behind schedule to take delivery of Products at the Delivery Point, Seller may, at its sole discretion, store Products at Buyer's sole risk of loss until Buyer picks it up and Buyer will be liable for all related costs and expenses (including storage and insurance).
3. All Product deliveries from Seller to Buyer are subject to and conditioned on Seller's receipt of Products or materials from its suppliers. Should the fulfillment of the Contract be delayed or fail due to the delay or failure of Seller's supplier(s), Buyer shall not be entitled to a claim against Seller for damages or for any other reasons.

#### **VII. Rules for Access and Use of Website.**

1. As part of Seller's Services, Buyer may elect to access and use Seller's websites and related online systems (collectively, the "**Website**"). Buyer's access of the Website constitutes Buyer's acceptance of the terms and conditions of use then in effect and located at <https://www.dystar.com/terms/> (as may be amended or replaced from time to time, the "**Rules**") and incorporated herein by reference. There may be additional or different terms and conditions stated elsewhere on the Website that apply to Buyer's access and use of the Website. If Buyer does not agree to the Rules or such additional or different terms and conditions, Buyer must not access or use the Website.
2. By accessing the Website, Buyer further agrees to access and use the Website only for lawful purposes, and Buyer shall not access or use the Website in any manner that could (a) violate any applicable federal, state, local, or international law or regulation, (b) disable, overburden, damage, or impair the Website or interfere with any other party's use of the Website, (c) introduce any virus, Trojan horse, worm, logic bomb, or other material that is malicious or technologically harmful, or (d) otherwise interfere with the proper working of the Website.

#### **VIII. Force Majeure**

1. Seller will not be liable, and its performance (and delivery dates and delivery periods) will be deemed extended, for any delays or failure to perform directly or indirectly resulting from events and causes beyond Seller's reasonable control (each, a "**Force Majeure Event**"). Force Majeure Events include: accidents; acts of God;

lack, failure or disturbance of production or transportation facilities; fires and natural calamities (including floods, earthquakes, storms and epidemics); shortage of, or the failure of a supplier to supply to Seller, Products or materials; delay or inability to secure Products, materials, fuel, supplies, equipment, power or utilities at reasonable prices or in sufficient amounts through usual sources of supply; labor shortages; strikes, lockouts or other labor disputes; acts and omissions of governmental authority; any amended or new law, regulation or order of a governmental authority; declared or undeclared wars; terrorism; or explosions.

2. During any Force Majeure Event: (a) Seller is not obligated to purchase Products or materials from other sources to enable it to fulfill any purchase order from Buyer; and (b) Seller has the right to allocate its available Products among its customers, including those not under contract, in any manner without liability.

**IX. Security Agreement.** Buyer grants Seller a continuing first priority purchase money security interest in all Products sold or delivered to it and to the proceeds of Products (collectively, “**Collateral**”) to secure the full payment of the purchase price of Products and all other obligations of Buyer arising out of a Contract. Buyer authorizes Seller to file on Buyer’s behalf all financing statements, continuation statements and other documents necessary or desirable to establish, perfect, maintain, preserve and enforce Seller’s security interest in the Collateral.

**X. REACH.** Buyer hereby acknowledges and accepts its obligations under the Regulation (EC) No. 1907/2006 of the European Parliament and of the Council (“**REACH Regulation**”). Buyer will fulfill its obligations under the REACH Regulation, including Buyer’s obligations as a downstream user according to Titles IV and V of the REACH Regulation. It is Buyer’s sole responsibility to provide to Seller: (1) all information about hazardous properties of substances in preparations or in articles; and (2) in case of identified uses, any other information that may call into question the appropriateness of the risk management measures identified in a safety data sheet supplied to Buyer. In addition to and without limiting Seller’s other rights and remedies under a Contract, at law or in equity, in the event that Buyer fails to comply with its obligations under the REACH Regulation, Seller may take any or all of the following actions: (1) suspend performance; (2) terminate a Contract or any individual purchase order for default; and (3) take any other actions or pursue other rights or remedies.

#### **XI. Limitations; Exclusions**

1. IN NO EVENT WILL SELLER, OR ANY AFFILIATE OF SELLER, BE LIABLE UNDER ANY CIRCUMSTANCES FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING LOST REVENUES AND LOST PROFITS, ARISING OUT OF OR RELATING TO SERVICES, PRODUCTS, OR A

CONTRACT, INCLUDING ANY USE OF OR INABILITY TO USE ANY PRODUCTS OR SERVICES, REGARDLESS OF THE THEORY OF RECOVERY (INCLUDING CONTRACT, NEGLIGENCE, AND INDEMNITY), AND NOTWITHSTANDING THE FAILURE OF ANY REMEDY OF ITS ESSENTIAL PURPOSE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES.

2. Seller is not responsible for any injury or damage resulting from the use or application of Products or Services, alone or in conjunction with other products or raw materials.
3. IN NO EVENT, REGARDLESS OF THE THEORY OF RECOVERY (INCLUDING CONTRACT, NEGLIGENCE, AND INDEMNIFICATION), WILL SELLER’S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO ANY SERVICES, PRODUCTS, OR A CONTRACT EXCEED THE AMOUNT BUYER PAID TO SELLER FOR THE PARTICULAR PRODUCT OR SERVICES AT ISSUE.

**XII. Acceptance; Rejection of Non-conforming Products or Services.** Buyer will inspect all Products and Services immediately upon their delivery or performance and prior to use or resale. Immediately and no later than two weeks after delivery of a Product or performance of a Service, Buyer must give written notice to Seller of any claim by Buyer based upon any shortage, defect or discrepancy of Products sold or Services provided. Such notice must indicate the basis of the claim in detail, state the invoice number, invoice date, and information on the Product label and packaging. Buyer’s failure to comply within the time specified in this **Section XII** constitutes irrevocable acceptance by Buyer of Products delivered or Services provided and will bind Buyer to pay to Seller the full price of such Products or Services. Products sold will not be returned without Seller’s prior written consent and then only in accordance with Seller’s then current return policies (for example, Buyer may be required to obtain a return authorization number, package Products for their return, include the original packaging slip, and pre-pay freight).

#### **XIII. Limited Warranty**

1. Subject to the provisions in these Terms and in Sales Documents, Seller warrants that (a) when Products are delivered to Buyer, Products will materially comply with the published specifications for such Products, (b) access and use of the Website, and information provided in connection with or as a result of such access and use, is provided “AS IS” AND “AS AVAILABLE”, and (c) any Services will be performed in a reasonable, workmanlike manner (the warranties provided in this **Section XIII** are hereinafter referred to collectively as “**Limited Warranty**”). The Limited Warranty will apply for a period of 6 months after the (i) delivery date of the Product at issue, (ii) date of access to the Website, or (iii) date of performance of Services at issue, as applicable (“**Warranty Period**”). The Limited Warranty is



- conditioned upon Buyer following the Rules and Seller's claims process outlined in **Section XV** below, which Seller may change from time to time.
2. This Limited Warranty extends to Buyer only, and not to any resale customer of Buyer or end-consumer, and is non-transferable. In the event of a Product resale by Buyer, Buyer is solely responsible for any and all warranty and other claims resulting from Products and for any representations or warranties made by Buyer to its customers and any end-customers. Buyer will not refer to Seller, including the Limited Warranty, in any manner in connection with its resale of Products.
  3. Buyer is solely responsible for proper selection of Products and Services as well as for their use, application and processing, and Buyer has tested Products or otherwise determined their suitability for Buyer's intended use. In particular, Seller makes no representations or warranties regarding a Product's fitness for human consumption or use with foodstuffs, products and raw materials. As such, Buyer should not rely on Seller to ensure that Products purchased will meet any standards or specifications, including those relating to health, safety, or particular uses intended by Buyer.
  4. Any depictions, statements, claims, advertising, technical advice, calculations, trials, projections, diagrams, illustrations, and other descriptions or other information from Seller or its affiliates, applicable to Products, Services, or a Contract, whether included in catalogs, the Website, or otherwise, are descriptions or approximations only, and do not constitute any specifications, representations, warranties, or guarantees, implicitly or explicitly.
  5. EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY PROVIDED IN **SECTION XIII** ABOVE, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, STATUTORY OR OTHERWISE, REGARDING OR RELATING TO PRODUCTS OR SERVICES AND SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS AND IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO PRODUCTS AND SERVICES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. WITHOUT LIMITING THE FOREGOING, NEITHER THE SELLER NOR ANYONE ASSOCIATED WITH THE SELLER REPRESENTS OR WARRANTS THAT THE WEBSITE, ITS CONTENT, OR ANY SERVICES OR PRODUCTS OBTAINED THROUGH THE WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT SELLER'S WEBSITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE WEBSITE OR ANY SERVICES OR PRODUCTS OBTAINED

THROUGH THE WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

6. No employee, dealer, distributor, sales representative, or any other person or entity is authorized to offer any different or additional warranties or remedies, or to change the Limited Warranty, without the signature of an authorized officer of Seller.

**XIV. Limited Warranty Exclusions.** The Limited Warranty does not cover: (1) damage to Products during or after delivery; (2) use under circumstances or resale for uses exceeding Seller's specifications or limitations or contrary to any instructions or information from Seller; (3) Products sold or Services provided based on Buyer's instructions or information or other non-Seller specifications; (4) improper storage of Products or improper access or use of the Website; (5) any warranties or representations given by Buyer on resale of Products or use of Services; (6) repackaging, rebranding, modification or alteration of Products; and (7) accidents.

**XV. Buyer's Limited Warranty Claims**

1. Buyer must give Seller written notice of any Products or Services which Buyer alleges do not conform to the Limited Warranty, specifying the alleged non-conformities, stating the invoice number, invoice date, and information on the Product label and packaging (each notice, a "**Warranty Claim**"). Any Warranty Claim must be made within 14 days after Buyer is aware of the alleged non-conformity and, in any event, within the Warranty Period. Warranty Claims made thereafter are not valid claims. In any event, the Limited Warranty expires when, and no claims may be made after, the Warranty Period ends. In addition to the Warranty Claims process described in this **Section XV** Buyer agrees to follow any additional then current Seller Warranty Claims process, which may include obtaining from Seller a return authorization number in order to return an alleged non-conforming Product. Upon Seller's request, Buyer will provide supporting documents and information supporting its Warranty Claim and return, at its expense, any alleged non-conforming Product or sample thereof to a location designated by Seller for Seller to verify the claimed non-conformity. Seller will have a reasonable opportunity to evaluate the Warranty Claim, including inspection of such documents and information, Product or sample thereof, to evaluate the alleged non-conformity and the alleged non-conforming Services.
2. For any Products which Seller determines do not conform to the Limited Warranty, Seller's sole liability and obligation, and Buyer's sole and exclusive remedy, will be, at Seller's choice to replace such non-conforming Product, or to refund the purchase price for such non-conforming Product. For any Services which Seller determines do not conform to the Limited Warranty, Seller's sole liability and obligation, and Buyer's sole and exclusive remedy, will be, at Seller's choice, to correct or repeat such Services.

**XVI. Limitation of Actions; Exclusive Remedy.** ANY ACTION OR PROCEEDING AGAINST SELLER ARISING OUT OF OR RELATING TO SERVICES, PRODUCTS, A CONTRACT OR THE LIMITED WARRANTY WILL BE FOREVER BARRED UNLESS COMMENCED WITHIN THE EARLIER OF: (1) ONE YEAR AFTER THE CLAIM OR CAUSE OF ACTION HAS ACCRUED; OR (2) THE PERIOD PRESCRIBED BY THE APPLICABLE STATUTE OF LIMITATION OR REPOSE. The Contract contains Buyer's sole and exclusive remedies relating to the Contract, Services, Products or the Limited Warranty, regardless of the theory of recovery.

**XVII. Indemnity.** Buyer agrees to indemnify, defend and hold harmless Seller and its affiliates, and their respective officers, directors, employees and agents, from any and all claims, actions, suits, damages, liabilities, costs, obligations, and expenses (including attorneys' fees and expenses) arising out of or relating to: (1) Buyer's selection, application, use, resale or incorporation of Products or Services; (2) any processing or modification of Products in any manner by Buyer, its employees, agents or customers; (3) claims regarding warnings or failure to warn of dangers related to Products; (4) any violation or failure by Buyer to comply with applicable laws and regulations, including those pertaining to health and/or safety; (5) any intentional or negligent act, or misrepresentation by Buyer, its employees or agents; (6) any breach of warranty or misrepresentation (express or implied) made by Buyer, its employees or agents; (7) any violation, misappropriation, or infringement of any patent, trademark, copyright or other intellectual property rights of any person or entity arising out of or related to compliance with Buyer's design, specifications or instructions or Buyer's use of a Product with other goods; and (8) any breach by Buyer of any terms of a Contract.

**XVIII. Insurance.** Buyer will maintain commercial general liability, personal injury and property damage insurance policies, including wrongful death coverage, in reasonable amounts consistent with industry standards with a nationally recognized insurance company.

**XIX. No License.** Buyer agrees that Seller's sale of Products, provision of Services, and grant of access to, and Buyer's use of, the Website does not grant to Buyer any license or intellectual property or similar right applicable to or in any Products or Services, or in any information or documents (including estimates, projections, drawings, calculations, recipes or instructions) Buyer receives, and Buyer waives any and all such rights. Seller retains ownership in and control over all intellectual property, including patents, trademarks, copyrights, know-how, and goodwill applicable to or arising out of a Product, a Service, or use of the Website. Buyer will not name or designate any Seller information or Product or Service in any patent application. Buyer may not alter or remove, and will abide by, any patent, trademark, copyright, trade secrets, proprietary or other notices, serial numbers, labels, tags

or other identifying marks, symbols or legends contained on or in a Product (including containers or packages) or a Service. If Buyer acquires any intellectual property or similar rights in or relating to any Products or Services purchased under a Contract (including any rights in any trademarks, derivative works or patent improvements relating thereto), by operation of law, or otherwise, such rights are deemed and are hereby irrevocably assigned to Seller or its licensors, as the case may be, without further action by either Seller or Buyer.

**XX. Confidential Information.** Any Confidential Information (as defined below) which Seller provides or allows access to will not be used by Buyer (except as necessary internally for use or resale of Products or Services) and will not be disclosed by Buyer to any person or entity unless the disclosure is agreed to in writing by Seller. "Confidential Information" includes all information, documents and records Buyer obtains from Seller or its affiliates or their respective directors, officers, employees, agents or representatives verbally, electronically, in writing or otherwise, or anything derived in part or in whole from such material, whether or not marked confidential, relating to a Contract, the Products, the Services or Seller's business. Confidential Information includes the terms of any Contract, cost and pricing information, customer information, intellectual property or other similar rights, information regarding the Services, Product specifications and designs, Product development information, Product literature, potential product information, marketing plans and concepts, business strategy, Seller information, drawings, instructions, methods, processes, techniques, formulae, research data, other know-how, trade secrets and other proprietary information. Information generally available to the public is not Confidential Information of Seller. If Buyer is required by law, government regulation, subpoena or court order to disclose any Confidential Information, Buyer will give prompt written notice of the proposed disclosure to Seller, and Seller may take those actions it deems appropriate to protect the Confidential Information.

**XXI. Relationship.** Seller is an independent contractor. Nothing in a Contract will be construed as creating a partnership, association or joint venture between the parties. Buyer will have no power or authority to enter into any commitment on behalf of or otherwise bind Seller on any matter including making any representation or warranty on behalf of Seller. No employee of either party will be deemed to be an employee of the other party.

**XXII. Choice of Law; Venue; Jurisdiction.** The transaction and Contract, and any matter, dispute or controversy arising out of or relating to the transaction, Contract, Products, or Services will be governed by North Carolina law, excluding its conflicts of law principles, and the provisions of the 1980 United Nations Convention on the International Sale of Goods ("UNCISG") are expressly excluded. Buyer and Seller agree that the North Carolina

State Courts and the United States District Court for the Western District of North Carolina, will constitute the sole and exclusive judicial forum(s) and venue and, therefore, will have sole and exclusive jurisdiction over the adjudication and resolution of any and all matters, disputes and controversies arising out of or relating to a transaction, Contract, Products, or Services; except with respect to Seller's claim or any action instituted by Seller (1) for equitable or comparable relief including an action for temporary or permanent injunctive relief, (2) for recovery of possession of Products, such as replevin, claim and delivery, attachment or the like, or (3) to collect any amounts owed by Buyer.

**XXIII. Compliance With Laws.** Buyer will conduct its business in complete compliance with all applicable Federal, State, foreign and/or local laws, orders, regulations, directions, restrictions, and limitations. Buyer will obtain and maintain at all times during the term of any Contract all required certifications, credentials, registrations, licenses and permits necessary to conduct its business. Buyer will comply with all applicable export or import laws and regulations relating to the Products. In the event the Products must be registered in a particular country for Buyer to resell them to its customers, Buyer will notify Seller and Seller will, in its sole discretion, determine if Seller wishes to seek registration of the Products in such location. Buyer will have no right to register the Products in any location.

**XXIV. Miscellaneous.** A Contract contains the entire agreement of the parties relating to the subject matter and supersedes all previous and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral. A Contract will be binding on, and will inure to the benefit of, the parties and their respective successors, heirs and permitted assigns. Buyer may not assign (including by operation of law) all or any portion of its rights or obligations under a Contract without Seller's prior written consent, and any attempted assignment without that consent will be void. No assignment will relieve Buyer of any obligations under a Contract. Any consent, approval or agreement required or allowed by Seller may be given or withheld by Seller in its sole discretion and must be in writing and signed by an authorized representative of Seller to be effective. No delay or failure by Seller to exercise or enforce any of its rights or remedies under a Contract will be construed as a waiver of such rights or remedies. The express waiver of any right or remedy in a particular instance will not constitute a waiver of that right or remedy in any other instance. If any provisions of these Terms or any Sales Documents are held to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision(s) will be deemed to be severable and these Terms and any Sales Documents will then be construed and enforced in accordance with the remaining provisions. As used herein, the words "including", "include" and "includes" will not be deemed to be limiting. The Contract and these

Terms may be amended or modified only by a written agreement, signed by both parties, expressly amending or modifying the Contract or these Terms.